IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.12616 of 2025 and
Crl.M.P.Nos.8366 and 8367 of 2025

Axis Bank Limited,
Adyar Branch, Chennai 20.
Rep. by its Branch Manager. ... Petitioner

Vs.

State rep. by Inspector of Police,
Central Crime Branch,
EDF-1, Team-II,
Vepery, Chennai 600 008. ..Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.662 of 2020 on the file of the Metropolitan Magistrate CCB CBCID, Egmore quash the same as against the seventh accused / petitioner.

For Petitioner : Mr.V.T.Narendiran

For Respondent : Mr.A.Gopinath,
Government Advocate (crl.side)

ORDER

This petition has been filed to quash the proceeding in C.C.No.662 of 2020 on the file of the Metropolitan Magistrate CCB CBCID, Egmore.

2. The case of the prosecution is that on 10.06.2015, the defacto complainant, namely, one Swaminathan, reported to the Commissioner of Police, Chennai, that he had been working in the USA as a Computer Operator and sent his earnings back to Chennai, which were deposited into his father's savings account (S.B. A/c No. 082010100009874) at Axis Bank, Adyar Branch. While being so, on 13.01.2012, five term deposits totalling Rs. 48 lakhs were made in his father's name, which were set to mature on 13.03.2013. However, before the maturity date, the deposit amounts were withdrawn without his father's knowledge or consent. The first accused, M. Rajesh Kumar, an employee of Axis Bank, who assisted elderly clients with their bank transactions, obtained two cheque books in the name of the complainant's father, forged his

signature, and withdrew the funds. The said Rajesh Kumar, with the help of certain bank officials, misappropriated a sum of Rs. 48 lakhs, thereby committing offences of forgery, misappropriation of funds, and cheating. When the complainant enquired about the fraudulent transactions, he was threatened by one Rupesh, the current Manager of Axis Bank, Adyar Branch, who told him that he would be jailed unless he paid the tax. Therefore, the petitioner lodged a complaint and a case was registered in CCB Crime No. 210 of 2015 for the offences punishable under Sections 406, 420, and 468 of the IPC. Subsequently, after completion of investigation, the respondent filed a final report before the Metropolitan Magistrate CCB CBCID, Egmore and the same has been taken cognizance in C.C.No.662 of 2020.

3. The learned counsel for the petitioner submitted that the petitioner, a corporate entity, has been arrayed as A7 without any specific allegation of wrongdoing or criminal intent. The alleged fraudulent transactions involving term deposits of Rs. 48 lakhs were committed by individual bank staff, primarily A1, who forged the signature of the complainant’s father and misappropriated funds. It was contended that

the petitioner neither had knowledge of nor participated in the fraudulent acts and had merely provided banking services in the regular course of business. Since there is no material to establish *mens rea* or *actus reus* on the part of the petitioner, the continuation of proceedings amounts to abuse of process of law. Hence, he prays to quash the proceedings as against the petitioner.

4. The learned Government Advocate (crl.side) submitted that the final report has been filed after due investigation and there are sufficient materials to proceed as against all the accused, including the petitioner. The trial Court has taken cognizance, and the petitioner's role, if any, may be determined during the trial.

5. Heard both sides and perused the materials placed before this Court.

6. On perusal of the materials on record, it is evident that the core allegations pertain to fraudulent withdrawals by A1 using forged cheques, allegedly in connivance with the other bank staff. The petitioner

has been implicated solely in its capacity as the corporate bank entity. There are no specific allegations or materials to show that the petitioner had any role in the criminal acts or acted with *mens rea*. The criminal liability of a corporate entity requires the presence of *actus reus* and *mens rea*. In the absence of any evidence indicating complicity or knowledge, the principle of vicarious liability cannot be invoked. That apart, the petitioner, having acted within the scope of standard banking procedures, cannot be held criminally liable for unauthorized acts of its employees.

7. In view of the above, the proceedings in C.C. No. 662 of 2020 on the file of the learned Metropolitan Magistrate, CCB CBCID, Egmore, Chennai, is hereby quashed as against the petitioner (A7) alone. The learned Magistrate is directed to proceed with the trial as against the remaining accused (A1 to A6) in accordance with law and to complete the trial as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

8. Accordingly, this Criminal Original Petition stands allowed.

Consequently, connected miscellaneous petitions are closed.

24.04.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk

To

1.The Metropolitan Magistrate CCB CBCID, Egmore.

2.The Inspector of Police,
Central Crime Branch,
EDF-1, Team-II,
Vepery, Chennai 600 008.

3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

shk

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